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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

KENNETH CURRY, RICARDO MAZZITELLI,
JACQUELINE BROWN PILGRIM, on behalf of themselves
and other similarly situated,

Plaintiffs,

- against -

P&G AUDITORS AND CONSULTANTS, LLC; GRC
SOLUTIONS, LLC; PGX, LLC; AND APPLE BANCORP,
INC. d/b/a APPLE BANK FOR SAVINGS,

Defendants

And

PGX, LLC,

Crossclaim Plaintiff,

Against

KDC CONSULTING, LLC, KENNETH CURRY (IN HIS
CAPACITY AS MANAGING MEMBER OF KDC
CONSULTING, LLC), BROPIL CONSULTING, LLC,
JACQUELINE BROWN-PILGRIM (IN HER CAPACITY AS
MANAGING MEMBER OF BROPIL CONSULTING, LLC),
and DENNIS PILGRIM (IN HIS CAPACITY AS
MANAGING MEMBER OF BROPIL CONSULTING, LLC),

Crossclaim Defendants.

NOTICE OF
MOTION
Index No 20-cv-6985

DECLARATION OF JULIA H. KLEIN IN SUPPORT OF KDC CONSULTING, LLC'S, KENNETH CURRY'S (IN HIS CAPACITY AS MANAGING MEMBER OF KDC CONSULTING, LLC), BROPIL CONSULTING, LLC'S, JACQUELINE BROWN-PILGRIM'S (IN HER CAPACITY AS MANAGING MEMBER OF BROPIL CONSULTING, LLC), and DENNIS PILGRIM'S (IN HIS CAPACITY AS MANAGING MEMBER OF BROPIL CONSULTING, LLC) MOTION TO DISMISS PGX, LLC'S CROSSCLAIMS

I, Julia H. Klein, Esq., affirm under the penalties of perjury as follows:

1. I am a partner of Klein Law Group of New York, PLLC ("KLG") in New York, New York, counsel of record for Plaintiffs in this matter. KLG is an employment litigation firm based in New York City that represents plaintiffs in a variety of employment matters, including individual and class action litigation involving wage and hour, discrimination, and harassment claims, as well as contract and severance negotiations.

2. I submit this Declaration to place before the Court certain facts and documents relied upon by Crossclaim Defendants KDC Consulting, LLC, Kenneth Curry (in his capacity as managing member of KDC Consulting, LLC), Bropil Consulting, LLC, Jacqueline Brown-Pilgrim (in her capacity as managing member of Bropil Consulting, LLC) and Dennis Pilgrim (in his capacity as managing member of Bropil Consulting, LLC) (collectively, "Crossclaim Defendants") in their motion for dismiss PGX, LLC's ("PGX") Crossclaims.

3. Plaintiffs Kenneth Curry, Ricardo Mazzitelli, and Jacqueline Brown-Pilgrim filed the underlying Action on or around August 27, 2020. Attached hereto as Exhibit A is a true and correct copy of Plaintiffs' Complaint.

4. Defendant Apple Bank filed an answer and affirmative defenses on or around October 15, 2020.

5. On or around December 16, 2020, Plaintiffs filed a motion pursuant to 29 U.S.C. § 216(b) to seek collective action certification of this lawsuit and to authorize the dissemination of a notice to members of the collective which alerts them of their rights to opt-in and become

a plaintiff to this action. This motion is fully briefed, but the Court has not yet issued a decision with respect to the motion.

6. Defendants P & G Auditors and Consultants, LLC, (“P&G”), GRC Solutions, LLC (“GRC”), PGX, LLC (“PGX”) (collectively, “Contractor Defendants”) GRC, PGX, and P&G filed an answer on or around December 21, 2020. Along with their answer and affirmative defenses, PGX and GRC retaliated against Plaintiffs by filing crossclaims against them personally, as well as against their corporate entities and a spouse of one of the Plaintiffs, even though such crossclaims are retaliatory. Members of the putative class have learned about GRC’s and PGX’s crossclaims and have been intimidated by this action and as a proximate cause of these crossclaims have declined to opt-in to this Action. Attached hereto as Exhibit B is a true and correct copy of Contractor Defendants’ Answer and Affirmative Defenses and Crossclaims.

7. In response to the Crossclaims, Plaintiffs informed counsel for GRC and PGX that they intended to move to dismiss the claims. In accordance with the Court’s Individual Rules of Practice the parties exchanged correspondence and held a telephonic conference to discuss the contemplated motion to dismiss. In response, to these exchanges, the Contractor Defendants amended the crossclaims to remove certain claims but keep certain other claims.

8. PGX’s Amended Crossclaims kept allegations of breach of contract, indemnification and fraudulent conveyance. The parties continued to discuss the issues raised in the Amended Crossclaims in order to determine whether the parties could resolve their issues without motion practice but these discussions were ultimately unsuccessful. Attached hereto as Exhibit C is a true and correct copy of PGX, LLC’s Amended Answer and Affirmative Defenses and Crossclaims.

9. Formal discovery has not yet commenced.

10. PGX, LLC's Crossclaims reference a Mater Services Agreement between PGX, LLC and Crossclaim Defendant KDC Consulting, LLC. Attached hereto as Exhibit D is a true and correct copy of the PGX-KDC MSA.

11. PGX, LLC's Crossclaims reference a Mater Services Agreement between PGX, LLC and Crossclaim Defendant Bropil Consulting, LLC. Attached hereto as Exhibit E is a true and correct copy of the PGX-Bropil MSA.

Dated: March 2, 2021

Respectfully submitted,

By: /s/ Julia Klein

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